

Message Text

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ORIGIN EB-07

INFO OCT-01 ARA-14 EA-09 ISO-00 STR-04 AGRE-00 HEW-06
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R 011541Z JUL 77
FM SECSTATE WASHDC
TO AMEMBASSY SAN SALVADOR
AMEMBASSY TAIPEI
AMCONSUL SAO PAULO

UNCLAS STATE 153607

E.O. 11652: N/A

TAGS: ETRD, ES

SUBJECT: GOES REGULATIONS ON PROCESSED FOOD AND BEVERAGE
IMPORTS

REF: SAN SALVADOR 2095

1. PROCESSED FOOD AND BEVERAGE PRODUCTS PRODUCED IN THE
U.S. MAY BE EXPORTED WITHOUT RESTRICTION IF THEY MEET
STANDARDS FOR DOMESTIC SALE. IN ACCORDANCE WITH SECTION
801 (D) OF THE FOOD, DRUG AND COSMETIC ACT OF 1976 AS
AMENDED BY SECTION 106 OF P.L. 90-399 AND SECTION 3(F) OF
P.L. 94-295, SUCH A PRODUCT MAY ALSO BE EXPORTED EVEN
THOUGH IT DOES NOT MEET U.S. STANDARDS IF IT -

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"(A) ACCORDS TO THE SPECIFICATIONS OF THE FOREIGN
PURCHASER,

(B) IS NOT IN CONFLICT WITH THE LAWS OF THE COUNTRY
TO WHICH IT IS INTENDED FOR EXPORT,

(C) IS LABELED ON THE OUTSIDE OF THE SHIPPING

PACKAGE THAT IT IS INTENDED FOR EXPORT, AND

(D) IS NOT SOLD OR OFFERED FOR SALE IN DOMESTIC
COMMERCE."

FYI: WHILE FDA HAS THE LEGAL AUTHORITY TO REQUIRE EX-
PORTERS TO DEMONSTRATE COMPLIANCE WITH THE IMPORTING
COUNTRIES' LAWS AND REGULATIONS, IN PRACTICE THAT
RESPONSIBILITY IS LEFT TO THE OFFICIALS OF THE IMPORTING
COUNTRY. END FYI.

2. FDA DOES NOT ISSUE A "CERTIFICATE OF FREE SALE" FOR
ARTICLES FOR EXPORT. A FACTUAL STATEMENT OF THE STATUS
OF A SPECIFIC ARTICLE SUBJECT TO FDA JURISDICTION MAY BE
PROVIDED BY THE FDA UPON REQUEST. FOR AN ARTICLE NOT
SUBJECT TO PREMARKET CLEARANCE (E.G. FOOD) A STATEMENT
THAT ITS FORMULATION AND LABELING MEET THE REQUIREMENTS
OF THE ACTS FDA ENFORCES MAY BE PROVIDED BY THE FDA IF
THE COMPLETE QUANTITATIVE FORMULA, FULL LABELING AND
OTHER INFORMATION REQUIRED TO EVALUATE THE ARTICLE'S
STATUS ARE SUBMITTED BY THE REQUESTOR.

3. THE STATEMENT WILL BE ISSUED BY FDA IN LETTER ADDRES-
SED "TO WHOM IT MAY CONCERN." WHEN NECESSARY, AND UPON
SPECIFIC REQUEST, THE STATEMENT MAY BE A CERTIFIED COPY
UNDER SEAL OF THE DEPARTMENT OF HEALTH, EDUCATION AND
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WELFARE. A CERTIFIED COPY UNDER SEAL AUTHENTICATES THE
LETTER AS A DOCUMENT ISSUED BY THE FOOD AND DRUG
ADMINISTRATION; IT DOES NOT CONSTITUTE A CERTIFICATION
OF THE ARTICLE ITSELF IN ANY RESPECT.

4. FDA HAS NO OBJECTION TO AN EXPORTER WHO REQUIRES A
"CERTIFICATE OF FREE SALE" OBTAINING A STATEMENT FROM A
TRADE OR COMMERCIAL ORGANIZATION WHICH CERTIFIES THAT A
PRODUCT IS FREELY SOLD IN U.S. COMMERCE. ANY SUCH STATE-
MENT THAT THE ARTICLE IS IN CONFORMITY WITH THE LAW IS AT
THE RESPONSIBILITY OF THE ISSUING ORGANIZATION.

FYI: PARAGRAPHS 2-4 WERE TAKEN FROM FDA COMPLIANCE
POLICY GUIDE 7150.02. END FYI.

5. WE RECOGNISE A GOVERNMENT'S RIGHT AND RESPONSIBILITY
TO PROTECT ITS CITIZENS FROM HEALTH HAZARDS BY SETTING
STANDARDS FOR THE FOOD AND BEVERAGE PRODUCTS THEY CONSUME.
HOWEVER, THOSE STANDARDS SHOULD NOT BE ADMINISTERED IN
SUCH A WAY THAT THEY UNNECESSARILY RESTRICT TRADE AND/OR
UNFAIRLY DISCRIMINATE AMONG SUPPLIERS. DEPARTMENT IS
CURRENTLY REVIEWING VARIOUS TREATIES INVOLVED IN THE

CURRENT SITUATION AND WILL ADVISE EMBASSY FURTHER IF THEY
OFFER ANY SOLUTION TO PROBLEM. (WE WOULD APPRECIATE IF
EMBASSY WOULD POUCH A COPY OF THE EL SALVADOR-PANAMA
BILATERAL MENTIONED REFTEL.) IN THE INTERIM, EMBASSY
SHOULD, IF IT HAS NOT ALREADY DONE SO, REQUEST AN
EXEMPTION FROM LABORATORY VERIFICATION REQUIREMENT FOR
U.S. ORIGIN PRODUCTS. IN RAISING THIS MATTER WITH THE
GOES EMBASSY MAY WISH TO POINT OUT THAT THESE STANDARD
REQUIREMENTS SEEM TO BE ERECTING THE VERY SAME KINDS OF
TRADE BARRIERS WHICH THE GOES IS COMMITTED TO REDUCING
AS A PARTICIPANT IN THE MULTILATERAL TRADE NEGOTIATIONS
IN GENEVA. CHRISTOPHER

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Disposition Case Number: n/a
Disposition Comment:
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Disposition Event:
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Drafter: RLANDERS
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